

**Economic and Social Council**

Distr.: Limited
14 April 2014

Original: English

**Commission on Crime Prevention and
Criminal Justice****Twenty-third session**

Vienna, 12-16 May 2014

Item 5 of the provisional agenda*

**Integration and coordination of efforts by the United
Nations Office on Drugs and Crime and Member States in
the field of crime prevention and criminal justice****Italy and Mexico: draft resolution**

The Commission on Crime Prevention and Criminal Justice recommends to the Economic and Social Council the approval of the following draft resolution for adoption by the General Assembly:

**Strengthening international cooperation and criminal justice
responses to prevent and counter the smuggling of migrants**

The General Assembly,

Expressing its deepest concern over the damage done to society and the rule of law as a result of the smuggling of migrants, and over the fact that individual migrants have lost their lives in dangerous smuggling operations, and commending the health-care, law enforcement and civil society personnel who have dedicated themselves to protecting and assisting smuggled migrants,

Expressing its deepest concern also about the increase in the activities of transnational and national organized criminal entities and others that profit from crimes against migrants, especially women and children, including when unaccompanied, without regard for dangerous and inhumane conditions, threatening their lives in flagrant violation of domestic laws and international law and contrary to international standards,

Reaffirming its resolutions 66/128 of 19 December 2011, entitled "Violence against women migrant workers", 66/172 of 19 December 2011, entitled "Protection of migrants", 67/185 of 20 December 2012, entitled "Promoting efforts to eliminate

* E/CN.15/2014/L.



violence against migrants, migrant workers and their families”, 67/219 of 21 December 2012, entitled “International migration and development”, 68/4 of 3 October 2013, entitled “Declaration of the High-level Dialogue on International Migration and Development”, and 68/193 of 18 December 2013, entitled “Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity”.

Recognizing that international migration is a multidimensional reality of major relevance for the development of countries of origin, transit and destination, and also recognizing that this cross-cutting phenomenon should be addressed in a coherent, comprehensive and balanced manner, while respecting human rights and integrating development aspects, with due regard for social, economic and environmental dimensions,

Aware that, as criminals take advantage of migratory flows and attempt to circumvent immigration policies and laws, migrants become more vulnerable to crime, including kidnapping, extortion, forced labour, sexual exploitation and physical assault, as well as to debt servitude and abandonment,

Affirming that crimes against migrants continue to pose serious challenges and require a concerted international assessment and response, as well as genuine multilateral cooperation among countries of origin, transit and destination, for the eradication of such crimes,

Recognizing all efforts made by Governments, all relevant bodies, agencies, funds and programmes of the United Nations system, other relevant intergovernmental, regional and subregional organizations, including the International Organization for Migration and other organizations within the Global Migration Group, and the Special Rapporteur on the human rights of migrants, as well as non-governmental stakeholders, including the private sector and civil society, in addressing international migration and development for the benefit of both migrants and societies,

Recognizing also the increasing need for more effective international information-sharing, law enforcement cooperation and mutual legal assistance to prevent and counter the smuggling of migrants,

Stressing the importance of regulations and laws regarding irregular migration, including the smuggling of migrants, at all levels of government in countries of origin, transit and destination, being in accordance with the obligations of States under international law, including international human rights law,

Bearing in mind the need for a focused and consistent criminal justice approach to the smuggling of migrants, as well as to all crimes committed against migrants, in particular women and children, as a group that is especially vulnerable to abuse and crime,

Underlining that, although the crime of smuggling of migrants may share, in some cases, some common features with the crime of trafficking in persons, Member States need to recognize that they are distinct crimes requiring separate and complementary legal, operational and policy responses,

Welcoming the work and tools of the United Nations Office on Drugs and Crime in the framework of the global programme against the smuggling of migrants,

including the *Model Law against the Smuggling of Migrants*, the *International Framework for Action to Implement the Smuggling of Migrants Protocol* and the *Assessment Guide to the Criminal Justice Response to the Smuggling of Migrants*.

Recalling that the theme of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, to be held in Doha from 12 to 19 April 2015, will be "Integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation",

1. *Underlines* the need to tackle migration challenges caused by transnational organized crime through international, regional or bilateral cooperation and dialogue;

2. *Also underlines* that international cooperation to prevent and counter the smuggling of migrants implies a common and shared responsibility among Member States;

3. *Further underlines* the crucial role of the United Nations Convention against Transnational Organized Crime¹ and of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime,² as the primary international legal instruments to combat the smuggling of migrants and related conduct;

4. *Takes note with appreciation* of the increasing level of adherence to the Protocol against the Smuggling of Migrants by Land, Sea and Air and, on the tenth anniversary of its entry into force, urges States parties to implement it fully, and calls upon States that have not done so to consider ratifying or acceding to the Protocol as a matter of priority;

5. *Urges* Member States to develop and implement comprehensive and balanced strategies to raise awareness and understanding, in countries of origin, transit and destination, about the smuggling of migrants as a criminal activity, perpetrated for the purpose of profit, taking advantage of the vulnerability, ignorance and needs of migrants and also putting their lives at risk;

6. *Expresses its deep concern* about the high level of impunity so far enjoyed by smugglers and their accomplices, as well as other members of organized criminal entities, and stresses the need to establish or upgrade national and regional policies and strategies against the smuggling of migrants and to reinforce cooperation for the prevention of that crime and for the prosecution of smugglers;

7. *Calls upon* States parties to continue to review and, as appropriate, strengthen their relevant legislation and their entire criminal justice process, and to establish as criminal offences the acts covered by the Smuggling of Migrants Protocol and the Organized Crime Convention, including by introducing appropriate sanctions commensurate with the nature and gravity of the offence;

8. *Urges* Member States to avail themselves, to the fullest extent possible, of the international cooperation framework provided by the Organized Crime Convention, the Smuggling of Migrants Protocol and other relevant international

¹ United Nations, *Treaty Series*, vol. 2225, No. 39574.

² *Ibid.*, vol. 2241, No. 39574.

legal instruments, in order to ensure that they have an adequate legal framework to allow for extradition, mutual legal assistance and other cooperation tools in relation to such crimes;

9. *Also urges* Member States to cooperate with each other and with relevant international organizations to the fullest extent possible to prevent and suppress the smuggling of migrants by land, sea and air, and to facilitate the return of individuals who have been the object of smuggling operations to their country of origin, including through measures to enhance the capacity of States to accept the return of their nationals or permanent residents;

10. *Encourages* Member States to ensure that, in investigating and prosecuting the smuggling of migrants, the concurrent undertaking of financial investigations is considered, with a view to tracing, freezing and confiscating proceeds acquired through that crime, and to consider the smuggling of migrants to be a predicate offence of money-laundering;

11. *Also encourages* Member States to further strengthen their cooperation in protecting witnesses in cases of smuggling of migrants and, as called for in the Organized Crime Convention, to take appropriate measures to grant migrants effective protection against any type of violence that may be inflicted upon them, including protection from potential retaliation or intimidation for testifying as witnesses in criminal proceedings;

12. *Emphasizes* the need for reliable collection of data and research, at the national, regional and international levels, on the smuggling of migrants, including on smuggling networks and the involvement of organized crime in countries of origin, transit and destination, and on the links between smuggling of migrants and other crimes, such as corruption and trafficking in human beings, in firearms and in drugs;

13. *Encourages* Member States to exchange information to the fullest extent possible on best practices to promote cooperation and coordination, at the national, regional and international levels, to prevent, investigate and prosecute the smuggling of migrants by sea, in accordance with applicable domestic and international law, in particular the international law of the sea;

14. *Also encourages* Member States to reinforce multi-agency cooperation and coordination, such as by considering the establishment of multi-agency centres for the purpose of data collection, strategic and tactical analysis and information-sharing in order to detect, prevent and suppress the smuggling of migrants;

15. *Urges* Member States to provide specialized training for law enforcement, immigration and border control officials and coastguard personnel, as well as forensic experts, prosecutors and judges, so that they are better able to recognize and deal with issues related to the smuggling of migrants;

16. *Recognizes* the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants and the need to avoid approaches that might aggravate their vulnerability, and reaffirms the need to promote and protect effectively the human rights and fundamental freedoms of all migrants, irrespective of their migration status, nationality, gender, ethnicity,

religion or age, taking into account the special needs of women and children, especially when unaccompanied;

17. *Stresses* the need to deepen the interaction between Governments and civil society to find responses to the challenges posed by the smuggling of migrants, and to recognize the contribution of civil society, including non-governmental organizations, to promoting the well-being of migrants and their integration into societies;

18. *Invites* Member States to fully utilize all relevant tools developed by the United Nations Office on Drugs and Crime within the global programme against the smuggling of migrants and the relevant regional and national programmes, including the Sharing Electronic Resources and Laws against Organized Crime knowledge management portal, and also invites Member States to provide to the Secretariat legislation and case law related to the smuggling of migrants, for inclusion in that knowledge management portal;

19. *Encourages* the United Nations Office on Drugs and Crime to continue providing technical assistance aimed at strengthening the capacity of Member States to criminalize, investigate and prosecute the smuggling of migrants;

20. *Requests* the United Nations Office on Drugs and Crime to strengthen collaboration and cooperation with all relevant bodies, agencies, funds and programmes of the United Nations system, other relevant intergovernmental, regional and subregional organizations, including Global Migration Group members, within their respective mandates, in order to adopt a coherent, comprehensive and coordinated approach and thus to fully address the challenges posed by the smuggling of migrants;

21. *Encourages* Member States to make the best use of the relevant work and initiatives of the institutes of the United Nations crime prevention and criminal justice programme network in order to promote regional and international cooperation against the smuggling of migrants;

22. *Encourages* Member States and the United Nations Office on Drugs and Crime to promote cooperation on the most effective ways to prevent and counter the smuggling of migrants, in view of, among other things, the workshop on the topic "Trafficking in persons and smuggling of migrants: successes and challenges in criminalization, in mutual legal assistance and in effective protection of witnesses and trafficking victims", to be held within the framework of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice;

23. *Invites* Member States and other donors to provide extrabudgetary resources for these purposes, in accordance with the rules and procedures of the United Nations;

24. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its twenty-fifth session on the implementation of the present resolution.